K

1947. **File No.** Cr. P.C. II/47

K

Legal **DEPARTMENT**

B. **BRANCH**

Subject:—

MR 23/5

Rules and Notifications under the rods of criminal Procedure 1898.

**File No.** Cr. P.C. II/47

Std. Sectt. Slip 24 B e.

59-B

# C O N T E N T S.

Legal Department File No. Cr. P.C.II/47.


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| 2. | G.R.H.D.No.3635/48 10/1/47 | Public Charitable Trust Shree. Kumbhaswer Temple in Kumta Taluka, District, Kanara. | 5 (PP. 5-6 not typed) |
| 3. | H.D.Notifn.No.9849/4 20/1/47 | Sec. 8(1) Notification under. | 7 |
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# C O N T E N T S.

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# C O N T E N T S.

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E.K.N. 14/5/50.

# C O N T E N T S.

Legal Department File No. C.P.C. 22/47.

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| 51. | GRHD No. 3151/5/ 5/15/47. | Police Stations. Opening of three additional temporary --- in the Karli Diatumwad area of Thana. | 227 - 237 |
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| 52. | H.D.Notification No. | Sec. 4(1)(C) Notification under. | 239 - 240. |
| | | (PP. 229 - 240 not typed.) | |
| 53. | O.No. 11603 5/12/47. | Sec. 401. Whether it would be competent to the Provincial Govt. to impose a condition by an executive order requiring Mr. Furdy to leave the Dominion of India and not to return to it. | 241 - 245 |
| 54. | O.No. 13370 24/12/47. | Sec. 4(1)(3) Notification under. | 245 - 247. |
| 55. | GRHD No. 3151/3 31/12/47 | Corrigendum in GRHD No. 3151/5 of 5/12/47. | 249 |
| | | (PP. 249-250 not typed.) | |
| 56. | O.No. 11425 29/11/47. | Sec. 10. Whether Provincial Govt in competent to issue a notification regarding | 251 - 253. |
| | O.No. 508 17/1/48. | Dang District. | |
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1815

K.S.R.

- 18/5

NOTIFICATION.

Home Department,
Bombay Castle.

1947.

Code of Criminal Procedure, 1898.

No. 9249/4. In exercise of the powers conferred by ~~sub~~ sub-section (1) of the section 8 of the Code of Criminal Procedure, 1898 (V of 1898), and in supersession of Government Notification in the Home Department, No. 9249/4 dated the 9th October 1946 the Government of Bombay is pleased to divide the Surat District into the three sub divisions specified in column 1 of the Schedule hereto appended, each sub-division comprising the areas respectively specified against it in column 2 of the said Schedule.

Schedule.

| Sub-Division. | Areas. |
|---|---|
| 1. Chorasi. | Chorasi (excluding the area comprised within the municipal limits of the Surat Borough Municipality), Olpad, Mandvi and Bardoli talukas, and Valod Mahal. |
| 2. Bulsar. | Jalapore, Chikhli, Bulsar and Pardi talukas. |
| 3. Surat City. | The Area comprised within the Municipal limits of the Surat Borough Municipality. |

By order of the Governor of Bombay.

Secretary to Government.

E.K.N. 14/8/
4 C.

Office of the R.L.A.

The draft notification at page 171 ante, as amended, is in order.

(Sd) D.V.Vyas.

Remembrancer of Legal Affairs.

U.R. to H.D. No. 210, dated the 8th January 1947.

E.K.N.14/5/
4 C.

No. 9249/4.
Home Department,
Bombay Castle, 20th January 1947.

Notification.

Code of Criminal Procedure, 1898.

In exercise of the powers conferred by sub-section (1) of section 8 of the Code of Criminal Procedure 1898 (V of 1898) and in supersession of Government Notification in the Home Department, No. 9249/4, dated the 8th October 1946, the Government of Bombay is pleased to divide Surat District into three Sub-divisions as specified in column 1 of the Schedule hereto appended, each sub-division comprising the areas respectively specified against it in column 2 of the said Schedule.

Schedule.

| Sub-Division. 1. | Areas. 2. |
|---|---|
| 1. Chorasi | Chorasi (excluding the area comprised within the (Municipal) limits of the Surat Borough Municipality), Olpad, Mandvi and Bardoli Talukas and Valod Mahal. |
| 2. Bulsar. | Jalalpore, Chikhli, Bulsar and Pardi Talukas. |
| 3. Surat City. | The area comprised within the (Municipal limits of the Surat Borough Municipality). |

By order of the Governor of Bombay,

C.C. Drewe.
Secretary to the Government of Bombay,
Home Department.

---

No. 9249/4.
Home Department,
Bombay Castle, 20th January 1947.

Copies forwarded with compliments for information to:-
The Commissioner, Northern Division, (with reference to his endorsement No. M.A.J.81, dated the 2nd December 1946).
The District Magistrate, Surat, (with reference to his letter No. M.A.G.694, dated the 16th November 1946),
The District Judge, Surat,
The District Superintendent of Police, Surat,
The Remembrancer of Legal Affairs.

(sd)
for Secretary to the Government of Bombay, Home Department.

E.R.N. 14/5/

4 C.

Office of the H.L.A.

In place of the proposed G.Rs. at pages 25-26 ante, revised drafts are sent herewith.

(sd) D.V.Vyas.

Remembrancer of Legal Affairs.

U.H. to O.D., No. 812, dated the 22nd January 1947.

B.K.N.14/5/

40.

— . ——————, Secretary,
Village Panchayat of Ada, Taluka Anand,
district Kaira.
Removal of - from office under section
33(2) of Bombay Village Panchayats Act,
1933.

GOVERNMENT OF BOMBAY.
General Department,
Resolution No.
Bombay Castle, 1947.

RESOLUTION.

Whereas it has been reported to the Government of Bombay that ~~xxxx~~ during the year 1945, Mr. Vaghjibhai Malabhai, Secretary of the Village Panchayat of Adas, taluka Anand, district Kaira, used postage stamps, purchased out of the funds of the said Village Panchayat, in connection with the correspondence with the Regional Honorary Cement Adviser, Bombay, for obtaining cement for a well dug by Mr. Bhupatsang Vakhatsang Raj, who was a member of the said village Panchayat of Adas, in his own land, in Survey No. 1055 of Adas village;

And whereas, it appears to the Government of Bombay that Mr. Vaghjibhai Malabhai, has thereby been guilty of misconduct;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 33 of the Bombay Village Panchayats Act, 1933, (Bom.VI of 1933), the Government of Bombay hereby directs that the said Mr. Vaghjibhai Malabhai shall be forthwith removed from the office of the Secretary of the Village Panchayat of Adas, taluka Anand, district Kaira.

By order of the Governor of Bombay.

Secretary to Government.

To
The Commissioner, Northern Division,
The Collector and District Magistrate, Kaira,
The Home Department,
The Remembrancer of Legal Affairs,
The Director, Local Self-Government Institute.
(by letter).

B.K.N.14/5

4C.

Prosecution.

Mr. Vaghjibhai Malabhai, Secretary,
Village Panchayat of Adas, Taluka Anand,
district Kaira.

GOVERNMENT OF BOMBAY.
General Department,
Resolution No.
Bombay Castle, 1947.

Whereas in the year 1945, Mr. Vaghjibhai Malabhai held the office of the Secretary of the Village Panchayat of Adas, taluka Anand, district Kaira, and as such was a public servant not removable from his office save by the Government of Bombay;

And whereas during the said year 1945, the said - Mr. Vaghjibhai Malabhai while acting or purporting to act in the discharge of his official duty is alleged to have used postage stamps purchased out of the funds of the said Village Panchayat in connection with the correspondence with the Regional Honorary Cement Adviser, Bombay, for obtaining cement for the well dug by Mr. Bhupatsang Vakhatsang Raj who was a member of the said Village Panchayat of Adas, in his own land in Survey No. 1053 of Adas village;

And whereas, it appears to the Governor of Bombay that the said Mr. Vaghjibhai Malabhai has thereby committed an offence punishable under section 409 of the Indian Penal Code (XLV of 1860);

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 197 of the Code of Criminal Procedure, 1898 (V of 1898), the Governor of Bombay is pleased to grant sanction for the prosecution of the Said Mr. Vaghjubhai Malabhai for the said offence.

By order of the Governor of Bombay.

Secretary to Government.

To
The Commissioner, Northern Division,
The Collector and District Magistrate, Kaira,
The Home Department,
The Remembrancer of Legal Affairs,
The Director, Local Self Government Institute
(by letter).

B.K.N.14/5/
40.

Order under section 144 of the Code of Criminal Procedure, 1898.

Whereas the workers of the Pratap Mill of Amalner have been on strike with effect from..... .....and whereas the different rival sections among the said workers are likely to carry on propaganda against each other and thereby cause danger to human life and disturbance of the public tranquillity, and whereas immediate prevention is desirable,

I,..... hereby order under sub-section (1) of section 144 of the Code of Criminal Procedure, 1898(V of 1899),-

(1) that except with the previous written permission of the District Magistrate, no public procession or meeting shall be held in the Town of Amalner, and

(2) that no loud speaker shall be used at any such public procession or meeting,

during the period of ..... with effect from .....

District Magistrate,
East Khandesh.

E.K.S.14/5,
4 C.

Office of the H.L.A.

The original order of the District Magistrate East Khandesh at page 7 ante is defective in several particulars

(1) there is no mention of danger to public tranquillity in section 144(1) (the District Magistrate's order spells it with a single 'l'). The second paragraph of sub-section (1) of section 144 mentions disturbance of the public tranquillity,

(2) there is no reference to intimidation in section 144(1),

(3) paragraph 1 of section 144(1) presupposes that the District Magistrate is of the opinion that there is sufficient ground for proceeding under that section and immediate prevention or speedy remedy is desirable; and the opening portion of the second paragraph requires that such Magistrate may by written order stating the material facts of the case direct etc. The order being defective, the Home Department is advised to instruct the District Magistrate to issue a fresh order on the lines of the appended draft on the expiry of the present order.

(sd) D.V. Vyas.

Remembrancer of Legal Affairs.

E.K.S.14/5/4C. U.R. to H.D. (Spl.) No. 1252, dated the 6th February 1947.

Office of the R.L.A.

In pase of the proposed notification at page 9, a revised draft thereof is sent herewith.

(sd) D.V.Vyas.

Remembrancer of Legal Affairs.

E.K.H.14/5/ U.O.R. to H.D. No. 2441, dated the 15th March 1947.

4.C.

NOTIFICATION.

Home Department.
Bombay Castle, 1947.

Code of Criminal Procedure. 1898.

No. , in exercise of the powers conferred by clause (a) of sub-section (1) of section 4 of the code of Criminal Procedure, 1898, (V of 1898), and in modification of Government Notification in the Home Department, No. 2318-A, dated the 21st November 1922, in so far as it relates to the Bagalkot Police Station of the Bagalkot taluka, the Government of Bombay is pleased -

(a) to declare the following posts and places to be Police Stations in the Bijapur District, and

(b) to direct that these Police Stations shall include the local areas respectively specified under them

1. Bagalkot City Police Station:-

Limits of the Municipal district of Bagalkot City.

2. Bagalkot Taluka Police Station:-

1. Yedhalli (Paragana Haveli)
2. Anadilli
3. Shimikeri
4. Lachakhandi
5. Shigikeri
6. Govinnatti (Paragana Haveli)
7. Sirur
8. Benakatti
9. Hennikatti
10. Honnakatti
11. Kirsur
12. Hallapur
13. Andsurnal
14. Hugalanalli
15. Sangondi
16. Govinkop (Paragana Bennur)
17. Yenkunchi
18. Sindnal
19. Salgundi
20. Kadampur
21. Sindgi
22. Nakarigundi
23. Sorkop
24. Honarhalli
25. Bannidinni
26. Kesanur
27. Murnal
28. Virapur
29. Gaddankeri
30. Niralkeri
31. Shirguppi (Paragana Bennur)
32. Talginhal
33. Ilyal
34. Chikhodlur
35. Hirenodlur
36. Chikurmatti
37. Hirenurmatti
38. Muttatti
39. Chikgulbal
40. Hiregulbal
41. Sitimani
42. Hannihalli
43. Timmapur
44. Hosur
45. Rampur
46. Govinmatti (Paragana Hankani).

E.K.N.14/5/

4 C.

47. Nagsampagi
48. Nagral
49. Nainegali
50. Achanur
51. Mudpalli.vi
52. Kadlimatti
53. Bhagavati

Kaladgi Outpost:

60. Kaladgi
61. Udgatti
62. Shardal
63. Ankalgi
64. Khajjidoni
65. Kalaskop
66. Govindkop (Paragana Kaladgi).
54. Lavalesvar
55. Bhilkerur
56. Hatinhal
57. Jadramkunti
58. Alur
59. Bennur.
67. Chikshellikeri
68. Hiresheilikeri
69. Tulsigeri
70. Chebbi
71. Sokndgi
72. Chikkawansi
73. Hiresawansi
74. Dyavanal.

Bevur Outpost.

75. Bevur
76. Mudvinkop
77. Mankani
78. Sutgundar.
79. Bommanhi
80. Bomnal
81. Chikmyageri
82. Hiremyageri
83. Kandargal.
84. Kallur.
85. Bhatkatti
86. Chavadapur
87. Sangapur
88. Devalapur (Paragana Bevur)
89. Bodnaikandinni
90. Chitkinkop
91. Devalapur (Paragana Mankani)
92. Ingalgi.

By order of the Governor of Bombay.

Secretary to Government.

Office of the R.L.A.

The draft notification at page 7, as slightly amended, is in order.

(Sd) K. R. Khan.
for Remembrancer of Legal Affairs.

U.R. to H.D. (Spl) No. 2574 dated the 17th March 1947.

E.K.N.14/5/
4C.

No. S.D.II/-457-II.
Home Department (Political)-war.
Bombay Castle, March 1947.

NOTIFICATION.

Whereas in exercise of the powers conferred by sub-section (1) of section 144 of the Code of Criminal Procedure 1898, (V of 1898) the District Magistrate, Ahmednagar, issued an order, dated the 18th January 1947, as specified in the Schedule appended hereto;

And whereas the period of the said order expires on the 17th March 1947;

And whereas it appears to the Government of Bombay that with a view to preventing the likelihood of riots or affrays or danger to human safety, the said order should continue to remian in force after the expiry of the said period on the 17th March 1947;

Now, therefore, in exercise of the powers conferred by subsection (6) of the said section, the Government of Bombay is pleased to direct that the said order shall remain in force for a further period of two months.

SCHEDULE.

Order under section 144 of the Code of Criminal Procedure, 1898.

(Here insert the order of the D.M.)

By order of the Governor of Bombay,

C.G. DREWE,

Secretary to Government.

E.K.N.14/5/
4 C.

Office of the R.L.A.

In place of the proposed draft notification at p.11, a revised draft notification is sent herewith. As G.N., H.D., No. 2358/2, dated 6th November 1941, was issued in modification of G.N., J.D., No.6859, dated the 20th October 1916, the revised draft notification provides accordingly.

(sd) D.V. Vyas.

Remembrancer of Legal Affairs.

U.R. to H.D., No. 3071 dated the 28th March 1947.

E.K.N.14/5/

Home Department.

Bombay Castle, 1947.

N O T I F I C A T I O N.

The Code of Criminal Procedure, 1898.

No. In exercise of the powers conferred by clause (2) of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898, (V of 1898), the Government of Bombay is pleased to amend Government Notification in the Judicial Department, No. 6859, dated the 20th October 1916, as amended by Government Notification in the Home Department No. 2358/2, dated the 6th November 1941, as follows, namely:-

In the said notification:-

(i) under the heading "Dharwar Taluka Police Station" after the entry bearing serial No.67 appearing under Garag Out Post, the following entries shall be inserted,-

| | | | |
|---|---|---|---|
| 67 A | Madanbhavi | 67B Hoshatti | 67C Kotur. |
| 67D | Dyban-Hardi | 67E Bogur | 67F Mugali |
| 67G | Venkatapur | 67H Khanapur | (Mahal Tadkot) |
| 67I | Hale-Tegur | 67J Tegur. | 67K Gulladkop |
| 67L | Shedbal | 67M Timmapur | @(Mahal Tegur) |

@ uninhabited village.

(ii) under the heading "2. Mugad Police Station of the Dharwar Taluka" the entries bearing serial Nos. 8 to 19 and 26 shall be deleted.

By order of the Governor of Bombay.

Secretary to Government.

E.K.N.14/5/40.

Office of the R.L.A.

A revised draft Order is sent herewith. The Public Works Department should verify whether the statement of facts made in the revised draft order is correct.

(Sd) P.M. Lal. 26/4

Remembrancer of Legal Affairs. cent.

U.O. to P.W.D., Through H.D., No. 102 dated the 26th April 1947.

E.K.T. 14/5/
4 C.

Office of the R.L.A.

The draft notification at p.33, as amended, is in order. It appears that G.E.,H.D., No. 0547/2, dated the 2nd September 1931 by which the Shiggaon and Taddas Police Stations were declared under clause (s) of sub-section (1) of section 4 of the Code of Criminal Procedure 1898, was issued in modification of G.N., H.D., No. 2023-A, dated the 26th October 1922 as further amended. Therefore in the preamble of the proposed draft notification it has been provided that the present notification is in modification of the said notification of 1922, as amended by the notification of 1931. The Home Department should verify this.

(Sd) P.N.Lat.

Remembrancer of Legal Affairs.

B.K.N.14/5/40. U.H. to H.D., No. 4213 dated the 25th April 1947.

NOTIFICATION.

Home Department.
Bombay Castle 1947.

Code of Criminal Procedure 1898.

No. - In exercise of the powers conferred by clause (c) of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898 (V of 1898) and in modification of Notification in the H.D. No.2025-A dated the 20th October 1932, as amended by Government Notification in th Home Department No. 9547/2, dated the 2nd September 1931, in so far as it relates to the Shiggaon and Tadas Police Stations in the Shiggaon Taluka of the Dharwar District the Government of Bombay is pleased-

(1) to declare the following posts and places to be Police Stations in the said district; and

(2) to direct that each police station shall includ the local areas specified under:-

Shiggaon Police Station of the Shiggaon Taluka.

Bankapur Out-Post of the Shiggaon Police Station.

1. Shiggaon
2. Khursapur
3. Naganur
4. Hunasikatti
5. Hottur
6. Nidagundi
7. Bisanhalli
8. Chakapur
9. Chik Hellur
10. Motahalli
11. Neeralgi (Mahal Kardagi)
12. Gundur.
13. Hanamerhalli
14. Kankanwad
15. Chikmallur
16. Hiremallur
17. Mantrayadi
18. Kardigi
19. Kengapur
20. Bannur
21. Bannikopa
22. Ganjigatti
23. Hugali
24. Shyabanur
25. Naikopa.
26. Hellad Basari Katti.
27. Dharangatti
28. Kalyana
29. Jekankatti
30. Kamanhalli
31. Gotagadi
32. Bisatikopa.
33. Wanahalli
34. Bujarukha Konankeri
35. Khurad Konankeri
36. Bhadrapur
37. Kalsageri @
38. Yadalabad@
39. Dasenkop @
40. Karkikop @
41. Lakasmikop @
42. Gangeloor.@
43. Nakapur
44. Hanakatti
45. Bada
46. Shingapur
47. Hugalikatti
48. Manchinkopa
49. Lakkikopa
50. Hunagund
51. Hallinaikankop
52. Mattikatti (Mahal Nidasing
53. Shidlapur
54. Hukabasarikatti
55. Hale Bankapur
56. Chennapur
57. Jalikatti
58. Kundur
59. Tever Melihalli
60. Halsoor.
61. Kuni Melihalli
62. Hannagi
63. Kal Hadav
64. Kurbar Hallur
65. Hardur
66. Hurlikopi
67. Chellal
68. Mahur
69. Chikkabudihal
70. Samvoor.
71. Hire Hellur.

72. Fakir Nandihalli
73. Teggihalli
74. Pannihatti*
75. Khajapur*
76. Shahabajar
77. Ankadkhna
78. Kottigeri
79. Kunawalli
80. S'dasivpett.

81. Ibrampur
82. Narayanpur
83. Shyabala
84. Walguddi
85. Galginkatti
86. Shidagerwalli
87. Yadihalli
88. Kallakatti
89. Muddankopa
90. Manakanhalli

Kalas Out Post of the Shiggaon Police Station.

92. Taredkopa*
93. Govanhal
94. Cheradhal
95. Chilurbadni
96. Gopagondankop
97. Allipur *
98. Rawalojikop
99. Yalavgi
100. Sankalipur
101. Huvinahli
102. Kankapur*

103. Kundikop
104. Furgaum Badni
105. Konerikop*
106. Kalas
107. Attigeri
108. Sisavinhal
109. Basanhal
110. Hulgoor
111. Fanigatti
112. Kyalkonda.

Tadas Police Station of the Shiggaon Taluka.

1. Jondalgatti
2. Halav Tarlaghatta
3. Madli
4. Silvant Somapur
5. Hosur
6. Yattinhalli
7. Artal
8. Bujarukah
9. Dhundasi
10. Malgondankop *
11. Mavkop *
12. Kyatankeri *
13. Hanamapur
14. Basawankopa *
15. Saigondankop*
16. Mu ttahalli
17. Ramankop
18. Hosakatti
19. Mullhalli
20. Kunkur
21. Gurnahalli
22. Bullapankop
23. Bujarukha Tarlagnatta
24. Hire Harakuni
25. Chik-Harkuni
26. Ingalgi.

27. Hirebudihal
28. Hattikatti (Mahal Kardigi)
29. Ramapur
30. Manakanhalli
31. Jigalur
32. Tadas
33. Balligatti
34. Timmapur
35. Tirtha
36. Biralagi (Mahal Tadas)
37. Hire-Bendigeri
38. Chik.Bendigeri
39. Belvalkopa
40. Belagali
41. ~~Kadahalli~~ Hulsogi
42. Kadahalli
43. Shyadambi
44. Kunnur
45. Hamadapur
46. Agviacmapur
47. Katapur.
48. Khurd Basapur*
49. Gudageri
50. Hunsikumar *
51. Bujarukaha - Narayanpur.

*Un habited.

By order of the Governor of Bombay

Secretary to Government.

Office of the H.L.A.

It is neither necessary nor desirable at this stage to amend the original sanction by introducing therein section 392 read with section 109 of the Indian Penal Code in respect of the Police Patel Babu Ahamuddn. It is doubtful whether on facts the charge under section 392 can be sustained. Even if it could be sustained, as the Magistrate has already summoned the accused before him he must be deemed to have taken cognizance (seeH.V. Parashram Keshav, VII B.H.C.R., Crown Cases P.61 at p.62), and the emendation of the sanction after cognizance is taken would not be helpful. Section 270(1) of the Government of India Act is not applicable to this case as apprehended by the Senior Police Prosecutor. No sanction of the Provincial Government is necessary for adding any charge under section 392 or otherwise in respect of Mr.Zunart (see H.L.A's Opinion No. 2598 dated 8th April 1946).

(sd) P.M.Lad 29/4

Recognizance of Legal Affairs.

E.K.H.14/5/ U.H. to H.D. No. 4325, dated the 20th April 1947.

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Office of the H.L.A.

In place of the proposed draft order at P.33, a revised draft thereof is sent herewith.

(Sd) P.M.Lacle 22/5

Remembrancer of Legal Affairs.

E.K.N.14/6/40.

U.R. to H.D., No. 5231, dated the 22nd May 1947.

Home Department,

Bombay Castle, May 1947.

O R D E R.

Code of Criminal Procedure.1898.

No. - The Government of Bombay is pleased to consent, under sub-section (2) of section 196A of the Code of Criminal Procedure, 1898 (V of 1898), to the initiation of proceedings under section 120B of the Indian Penal Code (XLV of 1860) against :-

(1) Yeshwant Shankar Hinawe, H.D. Licensee, Hattur,

(2) Damodhar Murlidhar Dodake of Sholapur,

(3) M.S.Kulkarni, servant in the H.D.Shop, Hattur,

(4) Anantrao Ramchandra Dodake of Sholapur,

(5) Kasimsaheb Saifansaheb Shaikh of Sholapur,

in respect of criminal conspiracy to commit an offence punishable under section 43(1)(a) of the Bombay Abkari Act, 1878 (Bom. V of 1878).

By order of the Governor of Bombay,

S.K.N.15/5/
4 C.

Secretary to Government.

No.718/5.
Home Department.
Bombay Castle, 26th May 1947.

NOTIFICATION.

Code of Criminal Procedure,1898.

Whereas in exercise of the powers conferred by sub-section (1) of section 144 of the Code of Criminal Procedure, 1898 (V of 1898), Mr. A.E. Caffin, O.B.E., I.P., Presidency Magistrate, Greater Bombay, issued an order, dated the 28th March 1947, as specified in the Schedule appended hereto;

And whereas the period of the said order expires on the 29th May 1947;

And whereas it appears to the Government of Bombay that with a view to preventing danger to human life, safety and the likelihood of riots or affrays the said order should remain in force after the expiry of the said period on the 29th May 1947;

Now, therefore, in exercise of the powers conferred by sub-section(5) of the said section 144 the Government of Bombay is pleased to direct that the said order shall remain in force for a further period of two months.

SCHEDULE.
ORDER.

WHEREAS rioting and assults have occured in several parts of the Greater Bombay AND WHEREAS there has been a serious distrubance of the public peace resulting in grievous hurt and deaths and other injuries to law abiding citizens AND WHEREAS there is also danger to human life and safety and there is likelihood of disturbance of the public tranquility AND WHEREAS I am of the opinion that the sale or transfer of arms or ammunition including percussion caps without my special permit should be prevented and that immediate prevention and speedy remedy are desirable, I, ALBERT EDWARD CAFFIN O.B.E.,I.P., PRESIDENCY MAGISTRATE,GREATER BOMBAY, having been invested with the powers requisited under section 144(1 of the Code of Criminal Procedure by virtue of Government Notification, Home Department No.S/50/2/1858 dated the 3rd February 1947, in exercise of the powers so vested in me, do hereby under section 144 of the said Code direct all dealers in arms and ammunition including percussion caps in the Greater Bombay, to abstain for a period of the two months wi effect from the 30th March 1947 from transferring either by sale or otherwise to any licence holder or person any arms or ammunition including percussion caps, except upon production by such licence holder or person of a special permit granted by me or by the District - Magistrate concerned t such licence holder or person for each particular transactio

I do further order that this order be served on the sai dealers individually.

Given under my hand and seal this 28th day of March 194

A.E.Caffin.
Presidency Magistrate,
Greater Bombay.

E.K.H.15/5
4C.

Note I:- In the case of an application from a licence holder residing outside Greater Bombay to a dealer in arms and ammunition including percussion caps carrying on business within Greater Bombay, the said dealer shall return the application with a request to the applicant to forward it through the District Magistrate within whose jurisdiction the licence holder normally resides.

Note II:- Any application by any person aggrieved to rescind or alter the above orders should be made to me at my office (Head Police Office) at Crawford Market, Bombay.

By order of the Governor of Bombay,

C.T. Daruwalla,
Secretary to the Government of Bombay,
Home Department.

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No.718/8-P.
Home Department.
Bombay Castle, 26th May 1947.

Copies forwarded with compliments to:-

The Commissioner of Police, Bombay, (with reference to his letter No.3728/AA, dated the 17th May 1947).
The Director of Publicity, Bombay.

2. The notification is being published in the Bombay Government Gazette Extraordinary, dated the 27th May 1947.

By order of the Governor of Bombay,

for Secretary to the Government of Bombay,
Home Department.

Office of the R.L.A.

The District Magistrate's order ceased to have force after 17/3/1947. Without the insertion of the name it is impossible to gather what order was kept in force by the notification. The omission of the name makes the notification altogether pointless and ineffective. Unless the order incorporated in the Schedule to the notification was directed to a particular individual it would be no order at all in this particular case. The notification cannot, therefore, be said to have prolonged the life of the District Magistrate's order. That order finally lapsed on 19/3/1947. Once it has lapsed it cannot revived by now issuing a so-called corrigendum to the notification.

2. The powers under section 144 are intended for tiding over temporary emergencies and in cases where immediate prevention or speedy remedy is desirable. It is expected that within the period of two months during which the order remains in force the authority should have recourse to regular preventive proceedings such as those under section 107 of the Code of Criminal Procedure. A repetition of the order by the District Magistrate would, therefore, violate the spirit of the section; and reported decisions have deprecated the habitual use by successive orders even with intervals under section 144. See 52 Madras p.69 at p.73; 38 Madras p.489 at p.491 and A.I.R. 1940 Sind 158 a decision to which Foston J. was a party. On the whole I would not advise the re-issue of the order by the District Magistrate.

(Sd)P.N. Lahiri 26/4

Remembrancer of Legal Affairs.

U.R. to H.D.(Spl.) No.183 Confl., dated the 28th April 1947.

E.K.H.15/5

40.

Office of the R.L.A.

The draft notification on page 11 ante as formally amended is in order.

(Sd) P.H.Lach 7/6

Remembrancer of Legal Affairs.

B.K.N.15/5

40.

U.R. to H.D., No. 6007 dated the 9th June 194

# N O T I F I C A T I O N.

Home Department,

Bombay Castle, 1947.

Code of Criminal Procedure 1898.

No. - In exercise of the powers conferred by clause (s)of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898(V of 1898), and in modification of Government Notification in the Home Department No.2211-A, dated the 21st August 1923, in so far as it relates to the Morwa and Godhra Police Stations of the Godhra Taluka of the Panch Mahals District, the Government of Bombay is pleased to direct that the villages of Helan, Kadwal, Bhunidra and Saji Wav, which were hithertofore included within the limits of the Sulat Outpost of the Morwa Police Station of the Godhra Taluka shall be excluded therefrom and be included within the limits and form part of the Shehera Outpost of the Godhra Police Station of the Godhra Taluka.

By order of the Governor of Bombay.

Secretary to Government.

E.X.N.15/5

4C.

NOTIFICATION.

Home Department,

Bombay Castle, 1947.

Code of Criminal Procedure 1898.

No. -In exercise of the powers conferred by clause (s) of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898(V of 1898), and in modification of Government Notification in the Home Department No.2318- dated the 21st November 1922, in so far as it relates to the Bagawadi and Kolhar Police Stations of the Bagewadi Taluka in the Bijapur District, the Government of Bombay, is pleased,

(1) to direct that the village as of Budni, which was hithertofore included within the limits of the Kolhar Police Station shall be excluded therefrom and be included within the limits and form part of the Bagewadi Police Station and;

(2)(a) to declare the following posts and placed to be Police Stations in the Bijapur District, and

(b) to direct that these Police Statons shall include the local areas respectively specfied under them.

VIII. Telgi Police Station of the Bagewadi Taluka.

| | | | |
|---|---|---|---|
| 1. | Telgi | 9. | Kurabardinni |
| 2. | Chiraldinni | 10. | Bhaganagar |
| 3. | Angadgeri | 11. | Tadagi |
| 4. | Koulgi | 12. | Sulkhod |
| 5. | Shikalwadi | 13. | Arsangi |
| 6. | Akalwadi | 14. | Masuti |
| 7. | Hunshyal(Paragana Chmalgi) | 15. | Kudgi |
| 8. | Guddinni | | |

Kolhar Outpost.

| | | | |
|---|---|---|---|
| 16. | Kolhar | 24. | Muttaladinni |
| 17. | Garsangi Khurd | 25. | Hale-Rolli |
| 18. | Garsangi Budruk | 26. | Kupgaddi |
| 19. | Baluti | 27. | Malghan |
| 20. | Halladgennur | 28. | Mattihal |
| 21. | Asangi Budruk | 29. | Hanmapur |
| 22. | Asangi Khurd | 30. | Nagardinni |
| 23. | Ronihal | 31. | Sidnath |

Nidgundi Outpost.

| | | | |
|---|---|---|---|
| 32. | Nidgundi | | |
| 33. | Devalapur | 41. | Katapur * |
| 34. | Gonal | 42. | Muddapur |
| 35. | Araldinni | 43. | Jiralbhavi |
| 36. | Marimatti | 44. | Vandal |
| 37. | Alimatti | 45. | Chimmali |
| 38. | Benal | 46. | Itgi |
| 39. | Abbihal | 47. | Areshankar |
| 40. | Kirshyal | 48. | Hebbal |

| | | | |
|---|---|---|---|
| 49. | Bisalkop | 51. | Maradgi |
| 50. | Gani | 52. | Majrekop. |

* Un-inhabited.

By order of the Governor of Bombay,

Secretary to Government.

NOTIFICATION.

Home Department,
Bombay Castle, 1947.

ode of Criminal
rocedure 1898.

In exercise of the powers conferred by clause (s) of Sub-section (1) of section 4 of the Code of Criminal Procedure 1898(V of 1898), the Government of Bombay, is pleased to amend the AA as follows, namely:-

1. To the entries under the Heading "Bagewadi Police Station of the Bagewadi Taluka" in the said notification the following shall be added, namely "52A Budni" and

2. For the portion beginning with the figures and words "VIII Kolhar Police Station of the Bagiwadi Taluka" and ending with the figures and word "53 Arishankor" the following shall be submitted, namely:- ( Here insert AA on p.17 ante)

By order of the Governor of Bombay,

Secretary to the Government of Bombay,
Home Department.

B.K.N.15/5/
40.

# N O T I F I C A T I O N.

Home Department,

Bombay Castle, June 1947.

Code of Criminal Procedure 1898.

In exercise of the powers conferred by clause (g)" of Sub-section (1) of section 4 of the Code of Criminal Procedure, 1898(V of 1898), the Government of Bombay, is pleased to amend the Government Notification in the Home Department No. 2318-A dated the 31st November 1928, as follows, namely:-

1. To the entries under the heading "Bagawadi Police Station of the Bagawadi Taluka" in the said notification, the following new entry shall be added, namely:-

" 52 A Budni ";

2. For the portion beginning with the figures and words "Vill Kolhar Police Station of the Bagawadi Taluka" and ending with the figures and word" 53 Areshankar." in the said notification the following shall be substituted, namely:-

(Here insert A - A on p.17 ante.)

By order of the Governor of Bombay,

Secretary to Government.

E.K.N.15/5

40.

Office of the R.L.A.

A revised draft notification is sent herewith.

(Sd) P.M.Lad

Remembrancer of Legal Affairs.

B.K.N.15/5 U.R. to H.D., No. 6085 dated the 11th June 1947.

4C.

NOTIFICATION.

Home Department,
Bombay Castle, . June 1947.

Code of Criminal Procedure 1898.

No. - In exercise of the powers conferred by clause (a) of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898 (V of 1898), the Government of Bombay is pleased to amend the Government Notificatic in the Home Department No. 2318-A dated the 31st Novembe 1922, as follows, namely:-

1. To the entries under the heading "Bagewadi Police Station of the Bagewadi Taluka" in the said notification, the following new entry sh be added, namely :-

" 52 A Budni ";

2. For the portion beginning with the figures and words "VIII. Kolhar Police Station of the Bagewadi Taluka" and ending with the figures and word "53 Areshanker" in the said notification the following shall be substituted, namely:-

(Here insert A - A on p.17 ante.)

By order of the Governor of Bombay,

Secretary to Government.

B.K.N.15/5
4C.

These papers are referred to the R.L.A. for advice whether sanction under section 197 of the Code of Criminal Procedure, 1898, to prosecute Mr. Sharifuddin Jafaralli Saiyad of Rustampura, Deputy Revenue and Police Patel, Rustampura, Taluka Thasra, Dist.Kaira, is necessary.

Sanction of the Provincial Government is necessary for prosecuting Mr. Sharifuddin Jafaralli Saiyad, Deputy Revenue and Police Patel, Rustampura, as he is not removable from his office without the previous sanction of the Provincial Governme (vide section 31 of the Mutadara Act, 1937).

Although the draft order at p. 5 ante has not been referre to the R.L.A. it may be scrutinized so that R.D. may not refer the case to the R.L.A. again for that purpose.

As regards the offences alleged to have been committed by the Deputy Revenue and Police Patel it may be pointed out to R.D. that instead of the charge under section 379 the charge will fall more appropriately under sec. 409 I.P.C. (Criminal breach of trust by public servant etc).

The draft orders, one under s. 197 of the Code of Criminal procedure, 1898 (V of 1898) and the other under sec. 6 of the Prevention of Corruption Act, 1947 (II of 1947) are put up for approval.

If approved reply may be:-

Sanction of the Provincial Government is necessary for prosecuting Mr. Sharifuddin Jafaralli Saiyad, formerly Deputy Revenue and Police Patel of Rustampura.

In place of the draft order at p.5 ante, a revised draft thereof is sent herewith.

The offence alleged will fall more appropriately under section 409 of the Indian Penal Code instead of under sec.379. The revised draft order provides accordingly.

(Sd) J. I. Bora
23/5/47

B.K.N.15/5/
4C.

The following points appear to require clarification:-

1. What were the duties and obligations of the Deputy Revenue and Police Patel who is going to be prosecuted under the existing law?
2. In respect of which particular incident of incidents it is proposed to prosecute him?

Accurate details of the same with particular reference to time and date may be ascertained and given out in this connection.

3. On the facts thus ascertained what offence or offences appear to have been committed. Here the facts may be analysed briefly and ground for coming to one conclusion or the other may be mentioned.

4. Would the Prevention of corruption Act, 1947 (II of 1947) be applicable to this case if it is found that the offence or the offences in respect of which this prosecution is going to be launched, took place before it (this Act) came into force?

Mr. Bora. (Sd) A. R. Khan, 24/5

Resubmitted with reference to D.S's note on prepage.

(1) The main duties of the Deputy Revenue and Police Patel are in short as follows:-

Revenue:- Collection of land revenue and other Govt. dues and supervision of village boundaries; preservation of irrigation works and other Govt. interests in the village safe custody of Govt. money in his charge; keeping a close watch over and reporting occurrences affecting the civil administration of the village, its boundaries or Govt. interests; reporting epidemics of contagious diseases and so on.

Police:- Is responsible for affording information regarding crimes, etc. He has to watch the movements of suspected persons, hold inquests, report and detect crimes, etc. Please see in this connection Gupte's Land Revenue Code, 1879, 3rd Edition, pp. 98-99.

(2) It is proposed to prosecute the Dy. Rev. and P.P. in respect of an offence of having allowed the cutting of fuel wood unauthorizedly from the Govt. Kharaba land at Rustampura on the 20th May 1945 at about 8 a.m. The facts in short, are as follows:-

On receipt of information at 8 a.m. on 20-5-45, that some persons were cutting fuel wood from the Govt. Khaaraba land, the Deputy Revenue and Police Patel, Sharifuddin Jafaralli Saiyad accompanied by his two Ravanias and others, went to the spot, and found that some persons of Anghadi village were cutting

about five of the defaulters assulted him and they could be brought ~~§§§~~ under control with difficulty only after the arrival of the said Patel's brother, Saiyadalli Jafaralli and 2 others. The defaulters were made to bring the fuel wood to the village in their five carts, and the wood was taken possession of by the Patel, after making a panchnama. The Patel further stated that on inquiry he came to know that the defaulters were sent by one Ibrahimkhan Umraokhan Malek of Anghadi village. The Police Patel states that he made a report on 20/5/45 which was however received by the Mamlatadar at 5 p.m. on 21-5-45.

It is an admitted fact that the fuel wood taken possession of by the Police Patel, was out from the Govt. Kharaba land, but the story of some of the defaulters is that they were sent with two cars by Ibrahimkhan Umraokhan Malek of Anghadi to fetch wood, if available from the field called Barantiwala field belonging to Ahmadkhan Mahomedkhan of Anghadi, and that as no fuel wood was available they were returning home with their carts. They met on their way back Navania Khathi Haji of Rustompura who informed them that fuel was [illegible] being sold at his village Rustampura at Rs. 5/- per cart load, and that thereupon they borrowed Rs. 10/- handed it over to the Police Patel at Rustampura through the Navania Khathi Haji, and were allowed by the P.P. to cut and remove two cart loads of fuel wood from the Govt. Kaharaba land.

Subsequently there was a quarrel as the defaulters wanted to cut remove four cart loads of fuel wood and the Police Patel demanded Rs. 10/- more. As they did not pay any extra money they were assulted by the P.P. and his son, the wood cut was brought in their carts to Rustampura and they were detained there upto 8 p.m.

These in broad outline are the rival versions of the two parties concerned. From the report of the Extra Asst Karkun it is gathered that the P.P. alleges having been assulted, but this is taken to be false by the E.A.K. who states that when the defaulters filed a complaint against

the P.P. before the P.S.I., Thasra, for having caused them hurt and when the P.P. came to know of it, he seems to have drafted the report on 21-5-45 (and dated it 20-5-45), and presented it in person to the Mamlatdar on the evening of the 21st May.

It is alleged that it has been a long standing practice with the Dy. Rev. and P.P. of Rustampura to allow cutting of wood from the Government Kharaba land on payment of money to him, though no receipts in respect of such payments are produced, as such receipts were never passed. Sixteen such specific instances are cited in the E.A.K's report. On the above facts it is alleged that the Dy. Rev. and P.P. Sharifuddin Jafaralli Saiyad has allowed persons to cut and remove fuel-wood from the Govt. Kharaba land on receipt of money and has misappropriated such sums of money.

(3) On the above facts, the District Govt. Pleader, Nadiad, recommended Prosecution under secs. 161, 379-109 of the I.P. Code. In view of the gratification other than legal remuneration received by the Dy. Rev. and P.P. the offence would fall under Sec. 161 of the I.P. Code, but sec. 379 (theft) does not seem to be proper. The more appropriate section is sec. 409 of the I.P. Code.

(4) The prevention of Corruption Act, 1947 (II of 1947) came into force on the 11th March 1947, and as the facts alleged above took place in May 1945, the offence which the facts constitute would not be also an offence under sec. 5 of the Prevention of Corruption Act, 1947 (II of 1947). No sanction under the said Act is therefore necessary.

(Sd) In view of the above note, reply may be as at A-4 on p.15 ante, as amended.

J.S.

J.L.Sora.

D.S.

The case was returned to me for further examining the point whether the offence committed would fall under ss.379-109 (theft and abetment thereof) ~~of~~ or under section 409 (Criminal breach of trust by public servant).

1. Mr. Sharifuddin Jafaralli Saiyad, the Deputy Revenue and Police Patel of Rustampura has, it is alleged, unauthorised ly allowed to be cut from the Government Kharaba land many cart loads of wood on payment of money to him. On 20th May 1945, the said Mr. Sharifuddin Jafaralli Saiyad obtained Rs. 10/- from one Rasul Natha and one Limba Ajan on behalf of their master one Irbahimkhan Umrakhan of Anghadi for unauthorisedly allowing wood to be cut from the Government Kharaba land. It is therefore proposed in these papers to prosecute him for offences under sections 161 and 379 - 109 Indian Penal Code.

3. The ingrediants of theft are:-

(1) Dishonest intention to take property,

(2) The property must be movable,

(3) It should be taken out of the possession of another person,

(4) It should be taken without the consent of that person,

(5) There must be some removal of the property in orde to accomplish the taking of it.

4. The ingrediants of Criminal breach of trust are:-

(1) Entrusting any person with property or with any dominion over property.

(2) The person entrusted (a) dishonestly misappropriatin or converting to his own use that property, or(b) dishonestly using or disposing of that property or wilfully suffering any other person so to do in violation-(i) of any direction of law prescribing the mode in which such trust is to be discharged, or(ii) of any legal contract made touching the discharge of such trust.

5. In theft the object of the offender is to take property which is in the possession of a person out of that person's possession. It seems in this case that the possession of the property is with the Deputy Revenue and Police Patel though

the ownership may be that of the Government and that the said Patel has dominion over the property. It is therefore -----not clear how he can commit theft in respect of property which he himself possesses. It is therfore submitted that the offence committed would fall more appropriately under section 409 I.P.C.

(Sd) J.I. Bora.

D.S. Resubmitted as directed by the D.S.

2. From para. 2 of the letter of the Commissioner, N.D., dated 30-1-1947 at p.1 it appears that it is proposed to give Government sanction by Govt. Resolution at p.5 ante for the prosecution of Mr. Sharifuddin Jafarali Saiyad, Deputy Revenue and Police Patel of Rustampura, Taluka Thasra, District Kaira, for offences punishable under sections 161 and 379-109 of the Indian Penal Code (XLV of 1860), as required by sec. 197 of the Criminal Procedure Code, 1898, because under sec. 31 of the Matadors Act, 1887 (Bom. VI of 1887), he is not removable from office save with the previous sanction of the Provincial Government. The R.L.A. is not requested to scrutinize the proposed G.R. at p.5, nor to give advice on the offences mentioned therein. All that the R.L.A. is requested to advise is whether the said Deputy Revenue and Police Patel can be said to have or purporting to have acted in the discharge of his officual duties (vide D.S., H.D's note dated 5-3-1947 and accepted by him (vide pages 3-4 ante). The R.D. wants R.L.A's view on this point (vide p.4.)

3. The question whether a person committed an act while acting or purporting to act in the discharge of his official dut is a question of fact. In the present case as stated on p.16, it was the duty of the Deputy Revenue and Police Patel to take care of Government trees in Kharaba land and not to allow them to be aunauthorisedly cut and wood taken by villagers. In allowing them to be cut and wood taken, he cannot therefore be said to have acted or purported to have acted in the discharge of his duties as a Deputy Revenue and Police Patel. Where the charge is taking illegal gratification for the purpose of doing something other than

the duty, or in other words, the allegation is that the accused persons have turned their backs on their duty and agreed to keep their backs turned on their duty for an illegal gratification, it cannot be said that they are accused of an offence alleged to have been committed by them while acting or pruporting to act in the discharge of their official duties. Sanction under section 197 is no necessary in such a case Kurhsed Ahmed vs. Amanulla 44, C. W.N.335 (p. 689 of Mitra's Criminal Procedure Code). Accordingly, the view taken in the H,D. office note dated 5-3-1947 at p.4 does not appear to be correct. It is therefore not necessary to issue the proposed G.R. at p.5. ~~However, the attention of the R.D. at p.5.~~ However, the attention of the R.D. may be invited to the provisions of sec.6(b) of the Prevention of Corruption Act, 1947 (II of 1947) under which no Court shall take cognisance of an offence punishable under sec. 161 of the I.P.C. without the sanction of the Provincial Government in the case of persons not removable from their office save by or with its sanction.

(sd) B.D.Pandit. 13/6/47

D.S. As the proposed G.R. (p.5) was not to be scrutinised, this should have been dealt with in 'A' Branch.

I should be obliged if A.L.R.(R.S.Katarki) would now kindly examine the point and suggest a reply.

Sd. A.R.Khan 14/6

R.L. A.L.R.(R.S.Katarki).

It appears that Mr, Sharifuddin Jafarali Saiyad deputy revenue and Police Patel of Rustampura in Thasra Taluka of the Kaira district, is proposed to be prosecuted on two counts namely (1) under section 161 I.P.C. for having received illegal gratification and (2) under section 379 read with section 109 I.P.C. for having unauthorizedly allowed and to be cut and removed from the Government Khara land. The question for the consider-

-ion of the R.L.A. is whether the sanction of Govt, under section 197(1) Cr. P.C. is necessary to prosecute him.

Under section 31 of the Hatadars Act, 1887 Mr. Sharifuddin though a deputy revenue and police Patel cannot be removed from office save with the previous sanction of the Provincial Govt. Consequently he cannot be prosecuted without the sanction of the Governor for offences provided such offences are alleged to have been committed by him while acting or purporting to act in the discharge of his official duty (see section 197(1) of the Criminal Procedure Code). However in view of the special provisions made in the Prevention of Corruption Act, 1947 the question whether Mr. Sharifuddin received illegal gratification while acting or purporting to act in the discharge of his duties within the meaning of section 197(1) Cr.P.C. does not arise. The sanction of the Provincial Govt. would be necessary under section 6(b) of the Prevention of Corruption Act, 1947 for prosecuting Mr. Sharifuddin for the offence under section 161 I.P.C.

With regard to the other charge namely, abetment of stealing Govt. wood I do not think it is an offence alleged to have been committed by Mr. Sharifuddin, while acting or purporting to act in the discharge of his official duty. In Gulabmiya (32 B.L.R.) the Bombay High Court has held that a liquidator who misappropriates money coming into his custody cannot be said to be acting or purporting to act in the discharge of his official duty. By party of reasoning a Govt. servant who either himself steals or abets stealing of Govt. property cannot be said to be acting or purporting to act in the discharge of his officual duty. Consequently no sanction of the Government under section 197(1) Cr. P.C. appears necessary for prosecuting Mr. Sharifuddin for the offence under section 379 read with the section 109 I.P.C.

(Sd) R.T.Katarki.

D.S. I agree with A.L.R. 16/6

Sd. A.R. Khan
17/6

R.L.A. Id P.M.L.
17/6

Office of the R.L.A.

Rather than allow the prosecution to fail at the end on a technical point, I would recommend the granting of sanction under section 197(1), Criminal Procedure Code for both the offences under section 161 and section 379 read with section 109 of the I.P.C; for it is possible to argue, - and the argument would depend upon the facts of the case, that giving permission to cut or to remove the wood is part of a Revenue Patil's duty. Sanction under section 197(1) is to be given by the Governor exercising his individual judgment ; whereas the sanction under section 6(b) of the Prevention of Corruption Act, 1947 is to be given with reference to the offence under section 161 I.P.C. by the Provincial Government. Two separate orders giving sanction in appropriate terms should therefore be passed.

(Sd) P.B. Lad. 19/6

Remembrancer of Legal Affairs.

B.K.N.15/6

4C.

U.R. to R.D., No. 6353, dated the 19th June 1947.

Office of the H.E.A.

The District Magistrate Kaira, has passed on 15-5-1947 the following Order under section 144 of the Code of Criminal Procedure, 1898:-

"No person other than a person specifically so permitte by the District Magistrate, Kaira, whether dealer, reside frequenter or visitor in Kaira District shall manufacture, sell or bring from outside, receive by any means and transfer, either by sale or otherwise any consignments of knives and other sharpedged instruments."

The question referred to the Remembrancer of Legal Affairs for consideration is whether in order to convict a person for disobedience of the Order, it is necessary to prove both receiving and transfer of consignment of knives or other sharpedged instruments or it will be sufficient to prove that the person either received such consignments or transferred. Disobedience to an order under section 144 is punishable under section 188 of the Indian Penal Code and that being so such an Order will be construed strictly by Courts. The Order issued by the District Magistrate, Kaira prohibits manufacturing, or selling or bringing from outside consignments of knives and then proceeds to prohibit receiving and transfer of such consignments. Whatever be the intention, as the Order is worded the disobedience to the Order occurs only when a person both receives and transfers consignments of knives or other sharpedged instruments. The order as worded is not happy. Under the Order as it stands it will not be possible to prosecute any person for the mere act of receiving consignments of knives or other sharpedged instruments. Before a person is convicted of the offence of contravening the Order it will be necessary to prove that he both received and transferred the consignments.

(Sd) D.V.Vyas.

Remembrancer of Legal Affairs.

E.H.H.15/5 U.R. to H.D.(Spl.) No. 305 Confl. dated the 14th July 1947.

40.

Office of the R.L.A.

Requisite draft orders are sent herewith. The Public Works Department is requested to verify the facts stated in the preamble to the orders.

2. Para.2. of P.W.D. note:- The Public Works Department should forward the sanction orders to the officer who will be asked to conduct the prosecution.

3. Para.3 of P.W.D. note:- To enable the Remembrancer of Legal Affairs to consider the point, the Public Works Department is requested to send a copy of the rules or any agreement governing the provident fund of Mr. Collett.

(Sd) D.V. Vyas.

Remembrancer of Legal Affairs.

U.O. to P.W.D. through P.&S.D.No.305 Confl. dated the 14th July 1947.

E.K.S.15/5/4C.

GOVERNMENT OF BOMBAY.

Public Works Department.

Order No.

Bombay Castle, July 1947.

O R D E R :

*To be filled in by P.W.D.

Whereas in the years ..... & ..... Mr. Mulshankar Maganlal Vyas held the office of the Deputy Engineer and Assistant Public Health Engineer to Government and as such was a public servant not removable from his office save by or with the sanction of the Government of Bombay;

And whereas the said Mr. Mulshankar Maganlal Vyas, as such public servant was legally bound under the provisions of rule 21 of the Bombay Civil Services Conduct Discipline and Appeal Rules, not to engage in trade without the previous sanction of the Government of Bombay;

And whereas during the said period the said Mr. Mulshankar Maganlal Vyas while acting or purporting to act in the discharge of his official duties engaged in trade without the previous sanction of the Government of Bombay by setting up and operating a firm of Consulting Sanitary Engineers and Contractors called Vinod and Company( - Vinod being the name of his son - ) for which he canvassed from local bodies, by using his official position, the work of making plans and estimates for Public Health Schemes and thereby obtained for himself and his son Vinod a pecuniary advantage of about rupees..... & .....;

*To be filled in by P.W.D.

And whereas it appears to the Governor of Bombay that the said Mr. Mulshankar Maganlal Vyas has thereby committed an offence punishable under section 168 of the Indian Penal Code (XLV of 1860),

E.E.E.15/5/46.

Now .....

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 197 of the Code of Criminal Procedure, 1898 (V of 1898), the Governor of Bombay is pleased to grant sanction for the prosecution of the said Mr. Mulshankar Maganlal Vyas for the said offence.

By order of the Governor of Bombay.

Secretary to Government.

GOVERNMENT OF BOMBAY.

Public Works Department.

Order No.

Bombay Castle, July 1947.

O R D E R.

*To be filled in by P.W.D.

Whereas in the years ..... * ..... Mr. Mulshankar Maganlal Vyas held the office of the Deputy Engineer and Assistant Public Health Engineer to Government and as such was a public servant not removable from his office save by or with the sanction of the Government of Bombay;

And whereas the said Mr. Mulshankar Maganlal Vyas, as such public servant was legally bound under the provisions of rule 81 of the Bombay Civil Services Conduct, Discipline and Appeal Rules, not to engage in trade without the previous sanction of the Government of Bombay;

And whereas during the said period the said Mr. Mulshankar Maganlal Vyas while acting or purporting to act in the discharge of his offical duties engaged in trade without the previous sanction of the Government of Bombay by setting up and operating a firm of Consulting Sanitary Engineers and Contractors called Vinod and Company ( - Vinod being the name of his son - ) for which he canvassed from local bodies, by using his official position, the work of making plans and estimates for Public Health Schemes and thereby obtained for himself and his son Vinod a pecuniary advantage of about rupees ..... *

*To be filled in by P.W.D.

And whereas it appears to the Government of Bombay that the said Mr. Mulshankar Maganlal Vyas has thereby committed an offence punishable under sub-section (2), read with clause (d) of sub-section (1), of section 5 of the Prevention of Corruption Act, 1947 (II of 1947);

Now.....

S.R.A.15/5/
4 C.

Now,therefore, in exercise of the powerd conferred by clause (b) of section 6 of the Prevention of Corruption Act, 1947 (II of 1947), the Government of Bombay is pleased to grant sanction for the prosecution of the said Mr. Mulshankar Maganlal Vyas for the said offence.

By order of the Governor of Bombay.

Secretary to Government.

Office of the R.L.A.

Revised drafts of Sanction Orders are sent herewith.

(Sd) D.V.Vyas.

Remembrancer of Legal Affairs.

E.R.F.15/5

40.

U.R. to R.D., No. 8188, dated the 7th August 1947.

## Notification.

Home Department.

Bombay Castle, 1947.

Criminal Procedure Code, 1898.

No.4256/5- In exercise of the powers conferred by clause (a) of sub-section (1) of section 4 of the Code Criminal Procedure, 1898 (V of 1898), the Government of Bombay is pleased to amend Government Notification, Home Department No. 4256/4 dated the 7th February 1941, as follows, namely:-

In the said notification, the entries '74 Khadki, and '84 Ujani' under the heading 'Bhusaval Rural Police Station of the Bhusaval Taluka' shall be deleted.

By order of the Governor of Bombay.

Secretary to Government.

E.K.N.15/5

4C-

## Notification.

Home Department.

Bombay Castle, 1947.

Criminal Procedure Code 1898.

No. 4256/5.- In exercise of the powers conferred by clause (a) of sub-section (1) of section 4 of the Code Criminal Procedure Code, 1898 (V of 1898), the Government of Bombay is pleased to amend Government Notification, Home Department No. 4256/4, dated the 7th February 1941, as follows, namely:-

In the said notification, the entries 74 Khadki, and '84 Ujani' under the heading 'Khusaval Rural Police Station of the Khusaval Taluka' shall be deleted.

By order of the Governor of Bombay,

B.K.N.16/5

4C.

Secretary to Government.

Office of the R.L.A.

There are two uninhabited villages bearing the name "Khadki" mentioned under "Bhusaval Rural Police Station". H.D. is requested to state in the first instance whether the G.R.,R.D. of 17-3-47 refers to both or one of the two, and if the later, which one? Or is the village "Khadki" mentioned again by mistake at entry 747

(Sd) S.L.C. 1/9

for Remembrancer of Legal Affairs.

U.R. to H.D., No. 8911, dated the 2nd September 1947.

B.K.N.16/5

DC.

Office of the H.L.A.

Under section 6 of the India (Adaptation of Existing Indian Laws) Order, 1947, "any words in an existing Indian law signifying that the Governor General or Governor is to act in his discretion or to exercise his individual judgment shall be omitted". Even if these words are omitted from section 107, Cr.P.C. the word Governor still remains; and as it is a question of sanction for the prosecution, it would not be a legal and it would certainly be unsafe to substitute the word Government for the word Governor. No amendment in the last two paragraphs of the draft section is, therefore, necessary.

(Sd) P.M.Lal 11/10

Remembrancer of Legal Affairs.

U.H. to H.D., No. 9869, dated the 15th October 1947.

P.H.D.16/5

40.

NOTIFICATION.

Home Department.
Bombay Castle, September 1947.

Criminal Procedure Code, 1898.

No. .- In exercise of the powers conferred b
clause (s) of sub-section (1) of section 4 of the Co
of Criminal Procedure, 1898 (V of 1898) and in supers
-ion of Government Notification in the Judicial Depart
ment No. 2332 datdd the 29th March 1899 in so far as
it relates to the Matar Police Station of the Matar
Taluka in the Kaira District, the Government of Bomba
is pleased to declare the following post and places t
be Police Stations in the said district and to direct
that the said Police Stations shall respectively
include the post and local areas specified thereunder.

(Here enter A - A on pages 3 - 5 post)

(Here enter B - B on pages 5 - 7 post)

(Here enter C - C on pages 7 - 9 post).

By order of the Governor of Bombay,

Secretary to Government.

I.K.N.16/5

4C.

OFFICE OF THE R.L.A.

A revised draft notification is sent herewith.

2. It appears from G.N.J.D. No- 2332 dated the 29th March 1890 that there are 107 villages under the jurisdiction of the Matar Police Station of Matar taluka. With the addition of "Baroda" to the said police station by Government Notification No.8/28 dated 25th November 1922 there would be in all 108 villages. From the proposed draft at pages 3-9 of loose papers below it will appear that there are 107 villages only under the two police stations of Matar and Bhalenda. H.D. is therefore requested to verify this discrepancy before the notification is issued.

(Sd) P.M.Lad 7/10

Remembrancer of Legal Affairs.

S.K.N.16/8
4C.

U.R. to H.D. no. 9815 dated 8th October 1947.

Erratum.

Home Department.

Bombay Castle, November 1947.

Code of Criminal Procedure, 1898.

No. - In Government Notification in the Home Department, No.2413-A dated the 6th November 1922, the entry "18 Nagsari" under the heading "II Songir Police Station of the Dhulia Taluka" shall be deleted.

By order of the Governor of Bombay,

Secretary to Government.

E.K.N.16/5

40.

Office of the R.L.A.

A revised draft erratum is sent herewith.

(Sd) S.B.Palekar.

For Remembrancer of Legal Affairs.

U.R. to H.D., No. 10734, dated the 8th November 1947.

E.K.H.16/5

40.

Office of the R.L.A.

Three separate sanction orders, two in the case of the Mamlatdar Mr. C.P.Shah and one in the case of th two Aval Karkuns, Messrs. Chauhan and Yagnik are sent herewith.

2. On the facts stated in the report of the P.S.I. it would appear that Mr. C.P.Shah has committed offences punishable under sections 384 and 409 of the I.P.C. Section 468 under with it is proposed to prosecute Mr. Shah relates to the commiting of forgery but since on the facts stated no such offence can be charged against him it has been omitted from the sanction orders.

3. Although under section 12 of the Bombay Land Revenue Code as adapted by the Government of India (Adaptation of Indian Laws) Order, 1937 the power to appoint Mamlatdars has been vested in the Provincial Government that power has been in turn delegated by the Government to the Commissioners under Government Notification No. 1527-33-B, dated the 1st April 1937 and ~~it~~ it is presumed still remains with them. Strictly speaking the sanction of the Provincial Government under section 197 of the Criminal Procedure Code, 1897, for the prosecution of Mr.Shah is not therefore necessary but it may be given ex majore cautela. Sanction for prosecuting him under the Prevention of Corruption Act, 1947, may also be separately given.

4. As regards the two Aval Karkuns it appears from the facts stated that they can be prosecuted for abetment of the offences punishable

384 and 409 of the I.P.C. as well as for the substantive offences under those sections. Since the Aval Karkuns are, it is presumed, appointed by the Collector and not by the Provincial Government no sanction under section 197 for their prosecution is necessary. As the Aval Karkuns can be prosecuted under the prevention of Corruption Act, 1947, in that they misappropriated Government money and property, a sanction order under section 6 of that Act is also prepared and sent herewith. Before issue of the sanction orders the Revenue Department will no doubt verify the facts stated in the preamble to the orders.

(Sd) P.M.Lad. 14/11

Remembrancer of Legal Affairs.

U.R. to R.D., No. 10848, dated the 15th November 1947.

Prosecution.
Mr. C.P.Shah, Ex.Mamlatdar of
Bulsar Sanction of.....

GOVERNMENT OF BOMBAY.
Revenue Department.
Resolution No.
Bombay Castle, 1947.

Confidential Memorandum No. A/174-181, dated the 24th July 1947 from the Additional Assistant to the Inspector General of Police, Anti-Corruption Branch Poona-

RESOLUTION:- Whereas in the year 1945, Mr. C.P. Shah held the office of the Mamlatdar of the Taluka of Balsar, District Surat and as such was a public servant not removable from his office save by or with the sanction of the Government of Bombay;

And whereas the Collector of Surat had instructed the said Mr.G.P.Shah to celebrate the "Victory Day" on the 24th December 1945 by distributing sweetmeats to school children of Bulsar taluka and sanctioned an expenditure of Rs. 1760 in that behalf;

And whereas for the purpose of distributing sweetmeats to school children the said Mr.G.P.Shah with the help of his two Aval Karkuns, Mr.V.D.Chauhan and Mr. M.R.Yagnik is alleged to have executed a contract with one Rana Dullabhai Jivan on the 20th December 1945 for the preparation of forty-four maunds of ~~ve~~ sweetmeats for the sum of Rs. 1,760/-, but, subsequently revoking the same orally, the said Mr.G.P.Shah got the sweetmeats prepared by supplying materials valued at about Rs. 546-12-9, and paying about Rs.462/-, to the said Rana Dullabhabhai Jivan for making the sweetmeats;

And whereas the said Rana Dullabhbhai was thereafter pressed to pass a false receipt for Rs.1760/- for the preparation of the sweetmeats;

And whereas the said Rana Dullabhbhai Jivan on refusing to pass uch false receipt, the said Mr.G.P,Shah with the help of Mr.V.D. Chauhan and Mr.M.R.Yagnik launched a false prosecution against the son of the said Mr.Rana Dullabhbhai Jivan and is thereby alleged to have extorted from the said Mr.Rana Dullabhbhai Jivan a receipt for Rs. 1760/- in respect of the preparation of sweetmeats and thus misappropriated a sum of about Rs. 751-8-3;

And whereas it appears to the Governor of Bombay that the said Mr.G.P.Shah while acting or purporting to act in the discharge of his official duties has thereby committed offences punishable under sections 384 and 409 of the Indian Penal Code (XLV of 1860).

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 197 of the Code of Criminal Procedure, 1898(V of 1898), the Governor of Bombay is pleased to grant sanction for the prosecution of the said Mr.G.P. Shah for the said offences.

By order of the Governor of Bombay,

Secretary to Government,

Prosecution.

Mr.G.P. Shah, Ex.Mamlatdar of Bulsar--
Sanction of --

GOVERNMENT OF BOMBAY
Revenue Department,
Resolution No.

Bombay Castle, 1947.

Confidential Memorandum No. A/174-161, dated the 24th July 1947 from the Additional Assistant to the Inspector General of Police, Anti-Corruption Branch, Poona.

RESOLUTION:-- Whereas in the year 1945, Mr.G.P.Shah held the office of the Mamlatdar of the taluka of Bulsar, District Surat and as such was a public servant not removable from this office save by or with the sanction of the Government of Bombay;

And whereas the Collector of Surat had instructed the said Mr. G.P.Shah to celebrate the "Victory day" on the 24th December 1945 by distributing sweetmeats to school children of Bulsar taluka and sanctioned an expenditure of Rs. 1760/- in that behalf;

And whereas for the purpose of distributing sweetmeats to school children, the said Mr. G.P.Shah with the help of his two Aval Karkuns, Mr.V.D.Chauhan and Mr.N.R.Vagnik is alleged to have executed a contract with one Rana Dullabhbhai Jivan on the 20th December 1945 for the preparation of forty-four maunds of sweetmeats for the sum Rs. 1760/-, but subsequently revoking the same orally the said Mr.G.P.Shah got the sweetmeats prepared by supplying materials valued at about Rs.340-12-0 and paying about Rs.412/- to the said Rana Dullabhbhai Jivan for making the sweetmeats;

And whereas the said Rana Dullabhbhai was thereafter pressed to pass a false receipt for Rs.1760/- for the preparation of the sweetmeats.

And whereas the said Rana Dullabhbhai Jivan on refusing to pass such false receipt, the said Mr.G.P.Shah with the help of Mr.V.D.Chauhan and Mr.M.R.Yagnik launched a false prosecution against the son of the said Mr.Rana Dullbhbhai Jivan and is thereby alleged to have extorted from the said Mr.Rana Dullabhbhai Jivan a receipt for Rs. 1760/- in respect of the prepatation of sweetmeats; and thus misappropriated a sum about Rs. 751-3-3;

And whereas it appears to the Government of Bombay that the said Mr.G.P.Shah has thereby committed an offence punishable under sub-section (2), read with clause (c) of sub-section (1), of section 5 of the Prevention of Corruption Act, 1947 (II of 1947);

Now, therefore, in exercise of the powers conferred by clause (b) of section 6 of the Prevention of Corruption Act, 1947 (II of 1947), the Government of Bombay is pleased to grant sanction for the prosecution of the said Mr.G.P.Shah for the said office.

By order of the Governor of Bombay,

Secretary to Government.

Prosecution:
Messrs. V.D. Chauhan and M.R. Yagnik-
Aval Karkuns --
Sanction of

Whereas in the year 1945, Messrs. V.D. Chauhan and M.R.Yagnik held the offices of the Aval Karkuns to the Mamlatdar of Bulsar, District Surat, and as such were public servants and removable from their offices by the Collector of Surat;

And whereas the "Victory day" was celebrated on the 24th December 1948 by distributing sweetmeats to the school children, in the Bulsar taluka of the Surat district;

And whereas certain quantity of sweetmeats remaining after distribution to the school children and certain quantity of ghee remaining after the sweetmeats were prepared were sold and proceeds thereof were misappropriated by the said Mr.Chauhan and certain other materials purchased in connection with the "Vicotry Day" entrusted to the said Messrs.V.D.Chauhan and M.R.Yagnik, were converted by them for their own use;

And whereas it appears to the Collector of Surat that the said Messrs. V.D. Chauhan and M.R.Yagnik have thereby committed an offence punishable under sub-section (2), read with clause (c) of sub.section (1), of section 5 of th Prevention of Corruption Act, 1947 (II of 1947);

Now, therefore, in exercise of the powers conferred by clause (c) of section 6 of the Prevention of Corruption Act, 1947 (II of 1947), the Collector of Surat hereby grants sanction for the prosecution of the said Messrs. V.D.Chauhan and M.R.Yagnik for the said offence.

Collector of Surat.

Office of the H.D.A.

A revised draft notification is sent herewith.

(Sd) S.B.Falekar.

For Remembrancer of Legal Affairs.

U.R. to H.D.No.1116, dated the 21st November 1947.

E.K.N.16/5

40.

NOTIFICATION

Home Department,
Bombay Castle, November 1947.

The Code of Criminal Procedure, 1898.

In exercise of the powers conferred by clause (a) of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898 ( V of 1898), and in supersession of Government Notification in the Judicial Department No. 9286, dated the 3rd November 1919 read with Government Notification in the Judicial Department No. 5528 dated the 1st August 1913, the Government of Bombay is pleased to declare the following posts and places to be police stations in the Panch Mahals district. Each police station shall include the local areas specified under its name.

(Here insert A - A on pp.3-8A)

By order of the Governor of Bombay,

B.K.S.15/5/40.

Secretary to Government.

Office of the S.L.A.

A consolidated draft notification in place of the draft notifications at pages 7 and 9 ante is sent herewith.

2. Since there is no village of Belatni included in the Akola Police station it is not necessary to exclude it from the said Police Station. Schedule A to the revised draft notification does not, therefore, mention that village.

(Sd) S.L.C. 10/11

for Remembrancer of Legal Affairs.

E.K.N.16/5

U.R. to H.D., No. 10778 dated the 10th November, 1947.

4C.

## Notification.

Home Department,

Bombay Castle, 1947.

Code of Criminal Procedure, 1898.

No. .- In exercise of the powers conferred by clause (a) of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898 (V of 1898), and in modification of Government Notification in the Judicial Department No.3446, dated the 4th May 1918, in so far as it relates to the Akola Police Station of the Akola Taluka of the Ahmednagar District and in supersession of the said Government Notification, that is to say, in so far as it relates to Rajur Police Station of the said Akola taluka, the Government of Bombay is pleased -

(1) to direct that the areas specified in schedule A hereto annexed shall be excluded from the Akola Police Station of the Akola taluka of the Ahmednagar district; and

(2) to declare the police station mentioned in Schedule B hereto annexed to be a police station in the Akola taluka of the said district and to direct that the said police station shall include the local areas specified below it in the said Schedule.

Schedule A.

( Here insert C - C on p.9 ante)

Schedule B.

( Here insert A - A on p.7 ante)

By order of the Governor of Bombay,

E.K.B.16/5/
4C.

SECRETARY TO GOVERNMENT.

Legal Department.

As the Palghar, Dahanu, Umbergaon and other Police Stations referred to are situated in one and the same District viz. the District of Thana, it is not necessary to issue three separate Notifications as proposed. A consolidated draft Notification in place of the three Notifications at pages 6 to 17 ante is sent herewith.

2. It appears from Government Notification No. 1164, dated 21st February 1916 that Palghar was declared to be a Police Station. That Notification was issued in supersession of Government Notification, Judicial Department No. 7638, dated 17th November 1909 in so far as it related to Mahim Plice Station of the Mahim Taluka. Subsequently in 1920 Government issued another Notification No.9810 dated 19th October 1920 delearing Palghar and Manor to be Police Stations of the Mahim Taluka. Although the Notification of 1920 does not in terms supersede the Notificatio of 1916, the latter Notification must be considered to hav been superseded by the former. No specific reference has therefore, been made in the draft Notification to the Notification of 1916.

(Sd) S.B.Palekar.

for Secretary to Government.

E.K.N.16/5/40.

U.H. to H.D., No. 10771, dated the 10th November 1947.

NOTIFICATION.

Home Department,

Bombay Castle, 1947.

Code of Criminal Procedure, 1898.
Government Notifications, Judicial Department--
(1) No.7638, dated the 17th November 1898
(2) No.804, dated the 4th February 1915.
(3) No.9810, dated the 19th October 1920,.
Government Notifications, Home Department--
(1) No.11842, dated the 1st December 1920.
(2) No.2343 A, dated the 3rd October 1922.
(3) No.2243 B, dated the 3rd October 1922.

No. .- In exercise of the powers conferred by clause (c) of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898 ( V of 1898) and in supersession of Government Notifications noted in the margin, and of all other previous notifications, relating to Palghar, Dahanu, Umbergaon, Manor and Kasa Police Stations in the Thana District the Government of Bombay is pleased to declare the following posts and places to be Police Stations in the said District. Each Police station shall include the local areas specified under its names, namely:-

1. Palghar Police Station of the Mahim Taluka
(Here enter A-A at pages 5-7 ante).
2. Manor Police Station of the Mahim Taluka
( Here enter B-B at pages 7-9 ante).
3. Dahanu Police Station of the Dahanu Taluka
(Here enter C-C at pages 11-13 ante).
4. Kasa Police Station of the Dahanu Taluka
( Here enterD-D at page 13 ante).
5. Umbergaon Police Station of the Umbergaon Taluka
(Here enter E-E at page 15 ante)
6. Talasari Police Station of the Umbergaon Taluka
(Here enter F-F at page 17 ante).

By order of the Governor of Bombay,

Secretary to Government.

Office of the R.L.A.

The Home Department draft at page 3 supersedes the original notification of 1899 relating to the Police stations in the Satara District. The notification has already been superseded in so far as it relates to the Wai and Khandala Police stations in the Satara District by Government Notification, Judicial Department, No.7760, dated the 26th October 1914 (slip B). This notification of 26th October 1914 has further been amended by Home Department Notifications dated 25th October 1928 and 11th February 1941. It is therefore necessary now to amend the notification of 1914 and not that of 1899.

A revised draft notification is sent herewith accordingly.

(Sd. P.N.Lad) 1/12

Remembrancer of Legal Affairs.

B.K.N.16/5/
4C.

U.N. to H.D., No.11511, dated the 2nd December 1947.

# NOTIFICATION.

Home Department,

Bombay Castle, 1947.

The Code of Criminal Procedure, 1898.

In exercise of the powers conferred by clause (a) of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898 (V of 1898), the Government of Bombay is pleased to amend Government Notification, Judicial Department, No.7760, dated the 28th October 1914, as follows, namely:-

For item No.III in the said notification relating to the Khandala Police Station of the Mal Taluka, the following shall be substituted, namely:-

(Here insert as at p.3)

By order of the Governor of Bombay.

Secretary to Government.

S.R.N 16/5

40.

Confidential. Office of the R.L.A.

Four separate sanction orders, two in each case, against Mr. G.G.Christian are sent herewith.

2. Under section 6 of the Prevention of Corruption Act, 1947, no Court shall take cognizance of an offence punishable under section 161 or section 165 of the Indian Penal Code, alleged to have been committed by a public servant except with the previous sanction, -

(a) --.....

(b) in the case of a person who is employed in connection with the affairs of a Province and is not removable from his office save by or with the sanction of the Provincial Government or some higher authority, Provincial Government;

(c) in the case of any other person, of the authority competent to remove him from his office.

As stated in R.L.A's opinion No.398-Confl. dated 18th November 1947, the point of time with reference to which sanction is to be given may either be the date of the commission of the offence or the date of the complaint. There is judicial difference of opinion on this question and consequently, to be on the safer side, the sanctions herewith forwarded are so drafted as to cover both the points of time; and the sanction under section 6 has been further so worded as to make it clear that even if the relevant point of time be the date of the Commission of the offence at which date Mr.Christian was a Mamlatdar, the Provincal Government was competent to remove him. Under section 12 of the Bombay Land Revenue Code, as adapted by the Government of India (Adaptation of Indian Laws) Order, 1937, the power to appoint Mamlatdars has been vested in the Provincial Government. That power has in turn been delegated by Government to the Commissioners under Government Notification No.1527-33-B dated 1-4-1937. Since the power to appoint includes the power to suspend or dismiss

(section 16 General Clauses Act), it is clear that Government would despite the delegation continue to exercise the power of removing a Mamlatdar. However, clause (c) speaks of the authority competent to remove, and it may conceivably be argued that by virtue of the delegation the Commissioner is also the authority who is competent to remove and that his sanction is in terms made necessary by clause (c). Therefore, ex majore cautela the Commissioner may also be required to give sanction for the prosecution on the footin that at the date when the offence was committed Mr.Christian was a Mamlatdar also removably by the Commissioner. Such sanction may be placed on record.

(Sd) P.M.Lad 6/12

Remembrancer of Legal Affairs.

U.R. to R.D. No. 430 Conf'l. dated the 6th December 1947.

Prosecution.

Christian, Mr.S.G., ex Mamlatdar of Bardoli.
Sanction for -----of,

GOVERNMENT OF BOMBAY.
Revenue Department.
Resolution/No. 3120/46.
Bombay Castle, December 1947.
No. 255 dated the 19th May 1947.
Letter from the Deputy Superintendent of Police, Surat.

Memorandum No. 146/7773, dated the 27th May 1947 from the Deputy Superintendent of Police, Surat.

Memorandum No.P.O.L.C.25, dated the 30th May 1947 from the District Magistrate, Surat.

Memorandum No.E.S.T., dated the 4th September 1947 from the Commissioner, Northern Division.

RESOLUTION:- Whereas in the year 1943 Mr.S.G. Christain was Magistrate First Class, Bardoli Taluka, Surat District;

And whereas at the time of his suspension in 1947 the said Mr.S.G.Christian was a public servant not removable from his office save by or with the sanction of the Government of Bombay;

And whereas one, Chhaganlal Hirabhai, a partner of Umrakh Trading Stores at Bardoli was arrested for an offence punishable under rule 81(4) of the Defence of India Rules on 23rd June 1943 and the said Mr. S.G.Christian demanded Rs.100 for releasing him on bail and accepted the amount from Mr.Chhaganlal in the presence of his partner, Mr.Chunilal Ambabhai, on 27th June 1943;

And whereas the said Mr.Christian further demanded Rs.200 and a bottle of wine for letting off the accused Chhaganlal with a light sentence of fine and after accepting Rs.100 and a bottle of wine on 27th July 1943 and the balance of Rs.100 on 1st August 1943 from the accused Chhaganlal and his partner he let off the accused with a fine of Rs.25/- only or in default simple imprisonment for seven days on 3rd January 1944;

And whereas the said accused Chhaganlal and his partner have made necessary entries in their account books regarding the payments made to Mr.Christian;

And whereas it appears to the Governor of Bombay that the said Mr.G.O.Christian while acting or purporting to act in the ~~his~~ discharge of his official duties has thereby committed an offence punishable under section 161 of the Indian Penal Code (XLV of 1860),

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 197 of the Code of Criminal Procedure, 1898 (V of 1898), the Governor of Bombay is pleased to grant sanction for the prosecution of the said Mr.G.O.Christian for the said ~~offence~~ offence.

By order of the Governor of Bombay,

Secretary to Government.

To

The Commissioner, Northern Division,
The Collector of Surat,
The Inspector General of Police,
The District Superintendent of Police, Surat,
The Home Department,
The Secretary, Bombay Public Service Commission.

Prosecution.

Christian, Mr.G.C., ex.Mamlatdar of Bardoli.
Sanction for ..... of,

GOVERNMENT OF BOMBAY.
Revenue Department,
Resolution No.3120/45,
Bombay Castle, December 1947.

Letter No.265, dated the 19th May 1947 from the Deputy Superintendent of Police, Surat.

Memorandum No.149/7773, dated the 27th May 1947, from the District Superintendent of Police, Surat.

Memorandum No. F.C.L.C.28, dated the 30th May 1947, from the District Magistrate, Surat.

Memorandum No.S.B.T., dated the 4th September 1947 from the Commissioner, N.D.

RESOLUTION:- Whereas in the year 1943 Mr.G.C.Christian was Magistrate First Class and Mamlatdar of Taluka Bardoli, District Surat and the Provincial Government was competent to remove him;

And whereas at the time of his suspension in 1947 the said Mr.G.C.Christian was a public servant not removable from his office save by or with the sanction of the Government of Bombay;

And whereas one Chhaganlal Hirabhai, a partner of Umrakh Trading Stores at Bardoli, was arrested for an offence punishable under rule 81(3) of the Defence of India Rules on 23rd June 1943 and the said Mr.G.C.Christian demanded Rs.100 for releasing him on bail and accepted the amount from Mr.Chhaganlal in the presence of his partner, Mr.Chunilal Bhikhabhai, on 27th June 1943;

And whereas the said Mr.Christian further demanded Rs. 200 and a bottle of wine for letting off the accused Chhaganlal with a light sentence of fine and after accepting Rs.100 and a bottle of wine on 27th July 1943 and the balance of Rs.100 on 1st August 1943 from the accused Chhaganlal and his partner he let off the accused with fine of Rs.25/- only or in default simple imprisonment for seven days on 3rd January 1944;

And whereas the said accused Chhaganlal and his partner have made necessary entries in their account books regarding the payments made to Mr.Chri tian;

And whereas it appears to the Government of Bombay that the said Mr.G.G.Christian has thereby committed an offence punishable under sub-section (2) read with clause (a) of sub-section (1), of section 5 of the Prevention of Corruption Act, 1947 (II of 1947);

Now therefore, in exercise of the powers conferred by clause (b) of section 6 of the Prevention of Corruption Act, 1947 (II of 1947), the Government of Bombay is pleased to grant sanction for the prosecution of the said Mr.G.G.Christian for the said offence.

By order of the Governor of Bombay,

Secretary to Government.

The Commissioner, S.D.,
The Collector of Surat,
The Inspector General of Police,
The District Superintendent of Police, Surat,
The Home Department,
The Secretary, Bombay Public Service Commission

Present:---

Christian, Mr.G.G., ex-Mamlr.
of Bardoli.
Sanction for -- of,

GOVERNMENT OF BOMBAY,
Revenue Department,
Resolution No.
Bombay Castle, 1947.

Memorandum from the District Superintendent of Police, No.292, dated the 7th July 1947.

Memorandum from the District Magistrate, Surat, No.P.O.L.C. 22, dated the 10th July 1947.

RESOLUTION:- Whereas in the year 1943, Mr.G.G.Christair held the office of Magistrate First Class of the Taluka of Bardoli, district Surat;

And whereas at the time of his suspension in 1947, the said Mr.G.G.Christian was a public servant not removeable from his office save by or with the sanction of the Government of Bombay;

And whereas Messrs. Maganbhai Kalabhai and Thakorbhai Jivanji of Singod Village were arrested on 11th February 1943, for an offence punishable under rule 56(4) of the Defence of India Rules and Mr.Maganbhai Arema of Damni village for an offence under rule 39(b) of the said Rules and the said Mr.G.G.Christian demanded Rs. 400 for releasing them on bail and after having accepted the amount through is friend Chhitibhai Vallabhbhai in the presence of Messrs.Ranbhai Kalabhai and Mallubhai Barbhubhai, Police Patel of Singod village, he released the three accused on 17th March 1943;

brother of the accused Maganbhai Kalabhai

And whereas it appears to the Governor of Bombay that the said Mr.G.G.Christian while acting or purportin to act in the discharge of his official duties has thereby committed an offence punishable under section 161 of the I.P.C., 1860 (XLV of 1860);

Now therefore, in exercise of the powers conferred

by sub-section (1) of section 197 of the Code of Criminal Procedure 1898 ( V of 1898), the Governor of Bombay is pleased to grant sanction for the prosecution of the said Mr.J.G.Christian for the said offence.

By order of the Governor of Bombay,

Deputy Secretary to Government.

To

The Commissioner, N.D

The Collector of Surat,

The I.G.P.,

The District Superintendent of Police, Surat,

The Home Department,

The Secretary' Bombay Public Service Commission.

Prosecution.

Christian, Mr.G.G., ex-Mamlatdar of Mardoli.
Sanction for -- of,

GOVERNMENT OF BOMBAY,
Revenue Department,
Resolution No.3120/45.
Bombay Castle, December 1947.

Memorandum from the District Superintendent of Police No.292, dated the 7th July 1947.

Memorandum from the district Magistrate, Surat, No. P.O.L.C.38, dated the 10th July 1947.

RESOLUTION:- Whereas in the year 1943 Mr.G.G.Christian held the office of the Magistrate First, Class, and Mamlatdar of Taluka Mardoli, District Surat and the Provincial Government was competent to remove him;

And whereas at the time of his suspension in 1947 the said Mr.Christian was a public servant not removeable from his office save by or with the sanction of the Government of Bombay;

And whereas Messrs. Maganbhai Kalabhai and Thakorbhai Jivanji of Singod village were arrested on 11th February 1943 for an offence punishable under rule 56(4) of the Defence of India Rules and Mr.Maganbhai Prema of Samni village for an offence under rule 39(b) of the said Rules and the said Mr.G.G.Christian demanded Rs.400 for releasing them on bail and after having accepted the amount through his friend Chhitubhai Vallabhbhai in the presence of Messrs. Rambhai Kalabhai, brother of the accused Maganbhai Kalabhai and Lallubhai Parbhubhai, Police Patel of Singod village he released the three accused on 17th March 1943;

And whereas it appears to the Government of Bombay that the said Mr.G.G.Christian has thereby committed an offence punishable under sub-section (2) read with clause (a) of sub-section (1), of section 5 of the Prevention of Corruption Act, 1947 (II of 1947);

Now, therefore, in exercise of the powers conferred by clause (b) of section 6 of the Prevention of Corruption Act, 1947 (II of 1947), the Government of Bombay is pleased to grant sanction for the prosecution of the said Mr.G.G.Christian for the said offences.

By order of the Governor of Bombay,

Deputy Secretary to Government.

To

The Commissioner, N.D.,
The Collector of Surat,
The Inspector General of Police,
The District Superintendent of Police, Surat,
The Home Department,
The Secretary, Bombay Public Service Commission.

Office of the R.L.A.

Under section 401 of the Code of Criminal Procedure, 1898, power has been given to the Provincial Government to suspend the execution of the sentence or remit the whole or any part of the punishment to which prisoner has been sentenced upon any conditions which the person sentenced accepts. The acceptance of the conditions by the person sentenced presupposes that the conditions must be imposed by the Provincial Government. Naturally the conditions must be such which the Provincial Government is competent to impose. Under section 49(2) of the Government of India Act, 1935, the executive authority of a Province extends to the matters with respect to which the Legislature of the Province has power to make laws. It does not appear that there is any entry either in the Provincial List or in the Concurrent List under which the Legislature of the Province can make a law requiring any person to leave the Dominion of India. On the other hand, admission into and expulsion from the Dominion of India, including in relation thereto the regulation of the movements in India of persons who are not British subjects domiciled in India or subjects of any Acceding State, is an entry in the Federal Legislative List. Presumably Dr.Purdy is not a British subject domiciled in India or in any Acceding State. In any view it, therefore, follows that it would not be competent to the Provincial Government to impose a condition by an executive order requiring Dr.Purdy to leave the Dominion of India and not to return to it. His acceptance of such condition would not be useful in enforcing it against him in the event of his breaking it.

(Sd) P.N.Lal.

Remembrancer of Legal Affairs.

S.K.N.16/5 U.O. to H.D. No. 11503, dated 2nd December 1947.

40.

No. 58/47



cate General's Chambers,
High Court,
Bombay, 5th December 1947.

U.D.R. to the Advocate General of Bombay,

dated the 3rd of December 1947.

Under section 401, a Provincial Government can suspend execution of a sentence on a prisoner upon any conditions which the prisoner accepts. It is proposed, as I understand to suspend the sentence on Dr.Purdy on condition that ~~him~~ he should leave the dominion of India and that he should give a certain security. I assume that Dr.Purdy is not a British subject domiciled in India or in any acceding State. Even so, the section speaks of conditions being "accepted" b the prisoner. In asense, no doubt, when condtions are made for the suspension of the sentence, they are "imposed", but strictly speaking the matter is one of the volition of a prisoner. The conditions are not imposed upon him against his will, and he can accept them or not. In the section itself, there is no limiation to the kind of condition that may be agreed to, and if the prisoner chooses to accept any as conditions of suspension, they can be of ectively fulfilled. ~~I think the determining factors are that there ispos limitation to the kind of condition thaty may be agreed to, and if the prisoner chooses to accept any as conditions of suspension, they can be effectively fulfilled.~~ I think the determining factors are that there is no limit imposed to thenature of conditions, and that the acceptance of conditions is a matter for the free will be of prisoner.

(Sd) C.K.Daphtary.

Advocate General.

NOTIFICATION.

Home Department,

Bombay Castle, December 1947.

Code of Criminal Procedure, 1898.

No. .- In exer-cise of the powers conferred by clause (a) of sub-section (1) of section 4 of the Code of Cri inal Procedure, 1893 ( V of 1898), the Government of Bombay is pleased to amend Government Notification in the Judicial Department, No. 9511, dated the 10th November 1919, as follows, namely:-

In the said notification, under the heading 'Anand Police Station of the Anand Taluka' the following new entry shall be added, namely:-

" 40 Vallabh Vidyanagar".

By order of the Governor of Bombay,

Secretary to Government.

H.H.N.18/5/

40.

Office of the R.L.A.

H.D. should verify, in the first instance, whether the village of "V.Vallabh Vidyanagar" has been declared a village under section 7 of the Bombay Land Revenue Code, 1879, as forming part of the Anand Taluka.

(Sd). P.M.Lad, 24/12

for Remembrancer of Legal Affairs.

E.R,N.16/5 40. U.R. to H.D., No. 13570, dated the 24th December 1947.

Office of the H.L.A.

The question of the status of the Dangs was exhaustively considered by the Home brancerof Legal Affairs in 1934 who after reviewing the notes on the question of the dan s recorded by Sir William Lee Warner, the Commissioner, C.D., and the Political Department, the Remembrancer of legal Affairs came to the conclusion that the dangs did not form part of British India and that conclusion seems to be correct. The States in the Dangs appeared to be Indian States and, therefore, the Criminal Procedure Code is not in force in those States Proprio Vigore . It will not, therefore, be competent for the Provincial Government to issue the proposed notification under section 10 of that Code. The notification will have to be issued as stated by Secretary, Home Department, in his note at page 10 ante under the Code as adopted by the States.

2. Attention of the Home Department is however invited to the Extra Provincial Jurisdiction Ordinance, 1947, recently made by the Governor General. The Home Department should ascertain whether the Central Government has, as contemplated in the Ordinance, any extra-provincial jurisdiction over the Dangs and if so, whether that Government has taken any action thereunder.

(Sd) P.M.Lad. 28/

Remembrancer of Legal Affairs.

U.O.R. to H.D., No.11423, dated the 29th November 1947.

Office of the H.E.A.

The question whether the Criminal Procedure Code and other laws in force in the Province of Bombay will automatically apply to the new district of the Dangs or any action will be necessary for the application of those laws to the new district will depend upon the nature of the order (law) under which the Dangs shall form part of the Province of Bombay.

(S$_A$) P.H.Lad.

Remembrancer of Legal Affairs.

U.O. to H.D. No. 595, dated the 17th January 1948.

H.R.N.16/5

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